IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 62 OF 2000.

Gomantak Bahujansamaj Parishad,
a Society registered under the
Society Registration Act, 1860
represented by its President,
Shri Gajendranath Usgaonkar. ... Petitioner.

VERSUS

1. Union of India,
   through the Ministry of
   Home Affairs, Government
   of India, New Delhi - 1.

2. The Secretary,
   Ministry of Home Affairs,
   Government of India,
   New Delhi - 1.

3. The Secretary,
   Ministry of Social Justice &
   Empowerment, Government of
   India, Shastri Bhawan,
   New Delhi.

4. State of Goa,
   Through the Chief Secretary,
   Government of Goa,
   Secretariat, Panaji, Goa.

Mr. D.P. Bhise, Advocate for the Petitioner.

Mr. J.S. Vaz, Additional Central Government
Standing Counsel for the Respondents No.1 to 3.

Mr. H.R. Bharne, Government Advocate for the
Respondent No.4.

CORAM: D.G. DESHPANDE &
P.V. HARDAS, JJ.

DATE: 4TH FEBRUARY, 2003.

ORAL JUDGMENT: **(PER DESHPANDE, J.**

Heard Mr. Bhise for the petitioner, Mr. Vaz for the Central Government and Mr. Bharne for the

State Government.

2. The petitioner is a Society registered under the Society Registration Act, 1860, representing Backward Classes of the State of Goa. The President of India issued Constitution (Goa, Daman & Diu) Scheduled Tribe Order 1968 (in short the Order of 1968) specifying tribes or tribal community in relation to the Union Territory of Goa, Daman and Diu, so far as regards to the members resident thereof in that Union Territory in the Schedule to the said Order as follows :-

(1) Dhodia;
(2) Dubla (Halpati);
(3) Naikda (Talavia);
(4) Siddi (Nayaka);
(5) Varli.

3. Thereafter Parliament enacted Goa, Daman and Diu Reorganization Act 1987 by which Goa was separately declared as a new State excluding Daman and Diu. Clause (b) of Section 19 of the Reorganization Act, repealed the Order of 1968 as well as the Constitution (Schedule Tribes) (Union Territories) Order 1951.

4. The grievance of the petitioner is that when the Order of 1968 was issued, none of the aforesaid five tribes or tribal communities were permanent residents of Goa District. They were restricted to Daman and Diu and since now Goa has become an independent State and the aforesaid communities are not residing in Goa, their inclusion is wrong. Therefore, the main prayer in the petition is that directions given in Part I of the Second Schedule under Clause (b) of Section 19 of the Goa, Daman and Diu Reorganisation Act 1987 is ultra vires of the Article 342 of the Constitution of India, for the reason that five tribes and tribal communities included in Part XIX – Goa of the amended Schedule to Constitution (Scheduled Tribes) Order, 1950 have no permanent abode or residence in the local territory of Goa.

5. This petition was opposed by the Union of India as well as by the State Government on two counts. Firstly, according to them the contention of the petitioner that the aforesaid five tribes or tribal communities were restricted to Daman and Diu and not to Goa is wrong. In para 5 of the Affidavit of P.K. Mohanty, Joint Director in the Ministry of Tribal Affairs on behalf of Respondent No.3, particulars on the basis of the census of 1971, 1981

and 1991 have been given and these particulars were that the five tribal communities were also residing or were to be found in the State of Goa. Secondly, in the same affidavit, it is specifically averred and that was also accepted by Mr. Bharne that the Government of Goa has also moved a proposal to delete five scheduled tribes and to notify Kunbi, Gawda, Dhangar and Velip communities in the list of Scheduled Tribes of Goa and partly action has been taken in including the names of Kunbi, Gawda, Dhangar and Velip communities and further action is in progress for the purpose of deleting five tribal communities referred to above for which the petition is filed.

6. In fact, in view of this specific statement made in the affidavit supported by the submissions made by Mr. Bharne and also accepted by the Advocate for the Petitioner that the Government of Goa has initiated such a move, nothing survives in this petition.

7. Therefore this petition is dismissed and Rule stands discharged.

D.G. DESHPANDE, J.

P.V. HARDAS, J.

sl.